

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

No changes - switching requester
from agency to DOA

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, as a result of 2005 Wisconsin Act 126, an applicant for an operator's license or identification card must present documentary proof that the person is either a United States citizen or legally present in the United States. DOT may not issue an operator's license to an applicant who has not provided this documentary proof of citizenship or legal presence. If documentary proof provided by a noncitizen includes an end date for the person's authorized legal presence in the United States, an operator's license or identification card issued to the person must expire no later than the date on which the person's authorization to be legally present in the United States ends.

Under current federal law, the REAL ID Act of 2005 (REAL ID Act) prohibits a federal agency from accepting for any "official purpose," including boarding commercial aircraft and entering federal buildings, an operator's license or identification card issued by a state unless the state satisfies requirements contained in the REAL ID Act. The REAL ID Act allows states to issue operator's licenses and identification cards that are not compliant with REAL ID standards if they clearly state on their face that they cannot be accepted by any federal agency for federal identification or any other official purpose and if they use a unique design or color indicator to alert federal agency and other law enforcement personnel that they are not REAL ID compliant. While the provisions of the REAL ID Act became

effective on May 11, 2008, the federal Department of Homeland Security (Homeland Security) regulations promulgated under the REAL ID Act gave states additional time to implement the REAL ID standards. The 2007 biennial budget act, 2007 Wisconsin Act 20, contained provisions incorporating into state law requirements contained in the REAL ID Act. However, most of these provisions are subject to a contingent effective date; the provisions do not become effective until the date specified in a notice provided by DOT after DOT has determined that it is ready to fully implement the REAL ID Act. DOT has not yet provided this notice.

After DOT provides this notice and these provisions of REAL ID become effective, they will require DOT to significantly modify its process for issuing operator's licenses and identification cards and DOT cannot issue or renew an operator's license or identification card unless the applicant provides, and DOT verifies, all of the following information: 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth; 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) valid documentary proof that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent or temporary residence in the United States or has any other specified forms of legal status or authorization. In processing the application, DOT must verify each document provided and must capture a digital image of each document, which must be retained for at least ten years. For certain legally present noncitizen applicants, DOT must issue operator's licenses or identification cards displaying, on the front of the license or card, a legend identifying the license or identification card as temporary. These licenses and identification cards must expire on the date that the person's legal presence in the United States is no longer authorized or, if there is no end date for the person's authorized legal presence, one year after the date of license or identification card issuance. These licenses and identification cards cannot be renewed unless the applicant provides documentary proof showing that Homeland Security extended the status by which the applicant qualified for the license or identification card.

This bill requires DOT to issue "driver cards," authorizing only the operation of "Class D" vehicles (generally automobiles and light-duty trucks), to applicants who: 1) are at least 18 years old or have held a driver card instruction permit for at least six months; 2) meet the knowledge and driving skills testing requirements applicable for issuance of operator's licenses for "Class D" vehicles; 3) provide proof of identity; 4) provide proof that they have been Wisconsin residents for at least six months; 5) are unable to provide the documentary proof (as established under 2005 Wisconsin Act 126 and as established under 2007 Wisconsin Act 20 after implementation of REAL ID) that they are either United States citizens or legally present in the United States; 6) provide valid individual taxpayer identification numbers; and 7) are not eligible for social security numbers. The document storage and verification requirements imposed for operator's license applicants after the implementation of REAL ID may not be imposed for driver card applicants.

Driver cards must be labeled as such and must clearly state on their face that they may not be accepted by any federal agency for federal identification or any other official purpose. Driver cards must also have a unique design or color indicator that clearly distinguishes them from other operator's licenses or identification cards issued by DOT and that alerts federal authorities that they are not REAL ID compliant. A driver card is issued for a two-year period and must be renewed every two years thereafter. The fee for issuance and renewal of a driver card is the same as that applicable to other operator's licenses, although the valid period is shorter.

DOT must also issue driver card instruction permits to persons who are at least 15 and one-half years old, who have passed any knowledge test required by DOT, and who, except for age or lack of training, are qualified to obtain a driver card. The operating restrictions for driver card instruction permits are similar to those applicable to other instruction permits.

DOT must promulgate rules specifying the standards for the issuance of driver cards and driver card instruction permits, including standards for proof of residency and proof of identification.

This bill also creates an identification certificate to be issued by DOT beginning at the time that DOT implements the provisions of the federal REAL ID Act. A person is eligible for an identification certificate if the person is a Wisconsin resident and does not possess a valid operator's license, driver card, or identification certificate issued by DOT. Identification certificates must be the same size as an operator's license but must be of a design that is readily distinguishable from the design of operator's licenses and identification cards. Each identification certificate must bear the words "IDENTIFICATION CERTIFICATE." As required by the federal REAL ID Act, identification certificates must clearly state on their face that they may not be accepted by any federal agency for federal identification or any other official purpose and must use a unique design or color indicator to alert federal agency and other law enforcement personnel that they may not be accepted for any such purpose. Each identification certificate must include a color photograph unless the identification certificate applicant provides an affidavit containing specified information, including that the applicant has a sincerely held religious belief against being photographed. An identification certificate is valid for eight years and the fee for an identification certificate is \$18.

The bill treats an identification certificate similarly to an identification card for some purposes and differently from an identification card for other purposes. The security standards for issuance of an identification certificate are not as strict as the standards applicable to an identification card after implementation of the federal REAL ID Act. However, for most purposes, an identification certificate has the same status as an identification card.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 1. 85.103 (2) of the statutes is amended to read:

85.103 (2) The department shall include on any form for application for original registration under s. 341.08, for application for renewal of registration under s. 341.08, for application for a certificate of title under s. 342.06, for application for a license or identification card or renewal of a license or identification card under s. 343.14, for application for an identification certificate or renewal of an identification certificate under s. 343.505 (2), and for application for a special identification card under s. 343.51, a place for the individual to designate that the individual's personal identifiers may not be disclosed in information compiled or maintained by the department that contains the personal identifiers of 10 or more individuals, a statement indicating the effect of making such a designation and a place for an applicant or registrant who has made a designation under this subsection or sub. (3) to reverse the designation.

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SECTION 2. 125.085 (1) (f) of the statutes is created to read:

125.085 (1) (f) An identification certificate issued under s. 343.505.

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SECTION 3. 134.71 (8) (a) 2. of the statutes is amended to read:

134.71 (8) (a) 2. A state identification card or identification certificate.

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SECTION 4. 139.30 (4n) of the statutes is amended to read:

139.30 (4n) "Government issued identification" includes a valid driver's license, state identification card or identification certificate, passport, or military identification.

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SECTION 5. 165.8287 (2) of the statutes, as created by 2009 Wisconsin Act 167, is amended to read:

165.8287 (2) Upon electronic request, the department of transportation shall make available to the department of justice, in a digital format, any photograph

1 taken of an applicant under s. 343.14 (3) ~~or~~, 343.50 (4), or 343.505 (2) (b) that is
2 maintained by the department of transportation. Updated photographs shall be
3 available to the department of justice within 30 days of photograph capture.

4 **SECTION 6.** 165.8287 (3) (d) of the statutes, [✓]as created by 2009 Wisconsin Act
5 167, is amended to read:

6 165.8287 (3) (d) The department of justice shall maintain a record, which may
7 be electronic, of each request by a law enforcement agency for a photograph under
8 this subsection and of the response to the request. Except as provided in s. 343.237
9 (9), the department of justice may not disclose any record or other information
10 concerning or relating to the request to any person other than a court, district
11 attorney, county corporation counsel, city, village, or town attorney, law enforcement
12 agency, the applicant under s. 343.14 (3) ~~or~~, 343.50 (4), or 343.505 (2) (b), or, if the
13 applicant is under 18 years of age, his or her parent or guardian. Records maintained
14 under this paragraph shall be maintained for at least 12 months.

15 **SECTION 7.** 340.01 (41g) of the statutes [✓]is amended to read:

16 340.01 (41g) "Operator's license" means the authorization granted to a person
17 by this state, another jurisdiction or certain countries to operate a motor vehicle,
18 including a driver's license, driver card, temporary or restricted license, or an
19 instruction permit.

20 **SECTION 8.** 343.03 (3) (f) of the statutes [✓]is amended to read:

21 343.03 (3) (f) *Probationary license.* If s. 343.085 applies, the license shall be
22 labeled "Probationary" or a readily recognizable abbreviation thereof instead of as
23 provided in par. (a) or (c) and, if the license is a driver card, in addition to as provided
24 in par. (g). This paragraph does not apply to a license authorizing the operation of
25 commercial motor vehicles.

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1 **SECTION 9.** 343.03 (3) (g) of the statutes is created to read:

2 343.03 (3) (g) *Driver card.* A license issued under s. 343.09 shall be labeled
3 “Driver Card” or a readily recognizable abbreviation thereof and shall satisfy the
4 requirements specified in s. 343.09 (2).

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5 **SECTION 10.** 343.06 (1) (c) of the statutes is amended to read:

6 343.06 (1) (c) To any person under age 18 unless the person is enrolled in a
7 school program or high school equivalency program and is not a habitual truant as
8 defined in s. 118.16 (1) (a), has graduated from high school or been granted a
9 declaration of high school graduation equivalency, or is enrolled in a home-based
10 private educational program, as defined in s. 115.001 (3g), and has satisfactorily
11 completed a course in driver education in public schools approved by the department
12 of public instruction, or in technical colleges approved by the technical college system
13 board, or in nonpublic and private schools or tribal schools, as defined in s. 115.001
14 (15m), that meet the minimum standards set by the department of public
15 instruction, or has satisfactorily completed a substantially equivalent course in
16 driver training approved by the department and given by a school licensed by the
17 department under s. 343.61, or has satisfactorily completed a substantially
18 equivalent course in driver education or training approved by another state and has
19 attained the age of 16, except as provided in s. 343.07 (1g) and (1j). The department
20 shall not issue a license to any person under the age of 18 authorizing the operation
21 of “Class M” vehicles unless the person has successfully completed a basic rider
22 course approved by the department. The department may, by rule, exempt certain
23 persons from the basic rider course requirement of this paragraph. Applicants for
24 a license under s. 343.08 or 343.135 are exempt from the driver education, basic rider
25 or driver training course requirement. The secretary shall prescribe rules for

licensing of schools and instructors to qualify under this paragraph. The driver education course shall be made available to every eligible student in the state. Except as provided under s. 343.16 (1) (bm) and (c) and (2) (cm) to (e), no operator's license may be issued unless a driver's examination has been administered by the department.

SECTION 11. 343.07 (1j) of the statutes is created to read:

343.07 (1j) PERMIT FOR DRIVER CARD APPLICANTS. Upon application therefor by a person at least 15 years and 6 months of age who, except for age or lack of training in the operation of a motor vehicle, is qualified to obtain a driver card under s. 343.09 and has passed such knowledge test as the department may require, the department may issue a driver card instruction permit. The permit entitles the permittee to operate a "Class D" vehicle upon the highways. A permittee under this subsection is subject to all of the restrictions specified in sub. (1g) (a) to (e), except that, with respect to sub. (1g) (a) (intro.), a permittee under this subsection may be accompanied by a person who holds a driver card issued under s. 343.09 or by a person who holds a valid regular license. An applicant under this subsection is subject to all applicable fees specified in s. 343.21 (1). A driver card instruction permit shall satisfy all requirements for driver cards specified in s. 343.09 (2) and any provision specified in s. 343.09 (6) shall not apply with respect to a driver card instruction permit.

SECTION 12. 343.07 (7) (a) of the statutes is amended to read:

343.07 (7) (a) Notwithstanding s. 343.43 (1) (d) and (3m), any person who violates sub. (1g) (a), (bm), or (d), (1j), or (4) (b) 1. or 2. shall be required to forfeit \$50 for the first offense and not less than \$50 nor more than \$100 for each subsequent offense.

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1 **SECTION 13.** 343.07 (7) (b) of the statutes is amended to read:

2 343.07 (7) (b) Upon receiving notice of a person's conviction for a violation of
3 sub. (1g) (a), (bm), or (d), (1j), or (4) (b) 1. or 2., the department shall notify any adult
4 sponsor who has signed for the person under s. 343.15 (1) of the conviction.

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5 **SECTION 14.** 343.085 (2m) (a) 1. b. of the statutes is amended to read:

6 343.085 (2m) (a) 1. b. A person who meets the requirements under s. 343.07
7 (1g) (a) or (1j).

✓
8 **SECTION 15.** 343.09 of the statutes is created to read:

9 **343.09 Driver cards.** (1) Except as provided in s. 343.06 (1) (a) to (k) and (m),
10 the department shall issue a driver card to any applicant who meets all of the
11 following requirements:

12 (a) Notwithstanding s. 343.085 (1) (b), the applicant is at least 18 years of age,
13 unless the applicant has held an instruction permit issued under s. 343.07 (1j) for not
14 less than 6 months and, during the 6-month period immediately preceding
15 application, has not committed a moving violation resulting in a conviction.

16 (b) The applicant meets all requirements under s. 343.16 (1) (a) for issuance of
17 an operator's license authorizing operation of "Class D" vehicles.

18 (c) The applicant provides proof of identity.

19 (d) The applicant provides proof that he or she has been a resident for at least
20 6 months.

21 (e) The applicant is unable to provide the documentary proof described in s.
22 343.14 (2) (er).

23 (f) The applicant provides a valid individual taxpayer identification number
24 issued by the federal Internal Revenue Service.

25 (g) The applicant is not eligible to receive a social security number.

1 (h) The applicant has paid all applicable fees.

2 (2) Driver cards shall clearly state on their face in bold lettering, and shall also
3 be encoded in the cards' machine readable zone, that they may not be accepted by any
4 federal agency for federal identification or any other official purpose. Driver cards
5 shall have a unique design or color indicator that clearly distinguishes them from
6 other operator's licenses or identification cards issued by the department and that
7 alerts federal agency and other law enforcement personnel that they may not be
8 accepted for federal identification or any other official purpose.

9 (3) A driver card issued under this section authorizes the operation of only
10 "Class D" vehicles and may not be endorsed to permit operation of the vehicle types
11 described in s. 343.04 (2).

12 (4) Notwithstanding s. 343.20 (1) (a), a driver card issued under this section
13 shall expire 2 years from the date of the applicant's last birthday and, upon renewal,
14 shall expire 2 years from the driver card's last expiration date. Notwithstanding the
15 8-year period specified in ss. 343.14 (3) and 343.16 (3) (a), a driver card may not be
16 renewed unless the applicant, every 2 years, passes the eyesight examination
17 specified in s. 343.16 (3) (a) and has his or her photograph taken as provided in s.
18 343.14 (3).

19 (5) An applicant under this section is subject to the full applicable fees specified
20 in s. 343.21 (1), without proration based upon the valid period of the driver card.

21 (6) Sections 343.06 (1) (L), 343.14 (2) (bm), (br), (em), and (er), 343.20 (1) (f) and
22 (1m), and 343.234 do not apply with respect to a driver card issued under this section,
23 and the incorporation or reference of any of these provisions in another statutory unit
24 shall not result in the application of any of these provisions with respect to a driver
25 card.

1 (7) The department shall promulgate rules specifying the standards for the
2 issuance of driver cards, including standards for proof of residency and for proof of
3 identification. These rules shall also apply to driver card instruction permits under
4 s. 343.07 (1j). The department shall, by rule, specify applicable moving violations for
5 purposes of sub. (1) (a).

6 **SECTION 16.** 343.09 (1) (e) of the statutes, as created by 2011 Wisconsin Act
7 (this act), is amended to read:

8 343.09 (1) (e) The applicant is unable to provide the documentary proof
9 described in s. 343.14 (2) ~~(er)~~ (es) or otherwise satisfy the requirements under s.
10 343.165.

11 **SECTION 17.** 343.09 (6) of the statutes, as created by 2011 Wisconsin Act (this
12 act), is amended to read:

13 343.09 (6) Sections 343.03 (3m), 343.06 (1) (L), 343.14 (2) (bm), (br), (em), and
14 ~~(er)~~ (es), 343.165, 343.20 (1) (f) and (1m), and 343.234 do not apply with respect to
15 a driver card issued under this section, and the incorporation or reference of any of
16 these provisions in another statutory unit shall not result in the application of any
17 of these provisions with respect to a driver card.

18 **SECTION 18.** 343.09 (7) of the statutes, as created by 2011 Wisconsin Act (this
19 act), is amended to read:

20 343.09 (7) The department shall promulgate rules specifying the standards for
21 the issuance of driver cards, including standards for proof of residency and for proof
22 of identification. These rules shall also apply to driver card instruction permits
23 under s. 343.07 (1j). The department shall, by rule, specify applicable moving
24 violations for purposes of sub. (1) (a). The department may not promulgate any rule
25 that has the effect of imposing document storage and verification requirements

1 similar to those under s. 343.165 in connection with the issuance of driver cards or
2 driver card instruction permits.

3 **SECTION 19.** 343.17 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
4 is amended to read:

5 343.17 (1) LICENSE ISSUANCE. Subject to ~~s.~~ ss. 343.09 and 343.165, the
6 department shall issue an operator's license and endorsements, as applied for, to
7 every qualifying applicant who has paid the required fees.

8 **SECTION 20.** 343.17 (3) (a) 14. of the statutes is created to read:

9 343.17 (3) (a) 14. For a driver card issued under s. 343.09, the information
10 specified in s. 343.09 (2).

11 **SECTION 21.** 343.19 (title) of the statutes is amended to read:

12 **343.19 (title) Duplicate licenses or identification cards or certificates.**

13 **SECTION 22.** 343.19 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
14 is amended to read:

15 343.19 (1) If a license issued under this chapter ~~or~~, an identification card issued
16 under s. 343.50, or an identification certificate issued under s. 343.505 is lost or
17 destroyed or the name or address named in the license ~~or~~, identification card, or
18 identification certificate is changed or the condition specified in s. 343.17 (3) (a) 12.
19 or 13. or 343.505 (3) (b) 9. no longer applies, the person to whom the license ~~or~~,
20 identification card, or identification certificate was issued may obtain a duplicate
21 thereof or substitute therefor upon furnishing proof satisfactory to the department
22 of full legal name and date of birth and that the license ~~or~~, identification card, or
23 identification certificate has been lost or destroyed or that application for a duplicate
24 license ~~or~~, identification card, or identification certificate is being made for a change
25 of address or name or because the condition specified in s. 343.17 (3) (a) 12. or 13. or

1 343.505 (3) (b) 9. no longer applies. If the applicant is a male who is at least 18 years
2 of age but less than 26 years of age, the application shall include the information
3 required under s. 343.14 (2) (em). If the original license or identification card is found
4 it shall immediately be transmitted to the department.

5 **SECTION 23.** 343.19 (2) (intro.) of the statutes is amended to read:

6 343.19 (2) (intro.) No person may knowingly make a false statement or fail to
7 return the original license ~~or~~ identification card, or identification certificate to the
8 department upon finding it or fail to comply with any other requirement of this
9 section relating to an application for any of the following:

10 **SECTION 24.** 343.19 (2) (c) of the statutes is created to read:

11 343.19 (2) (c) A duplicate identification certificate.

12 **SECTION 25.** 343.22 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
13 is repealed and recreated to read:

14 343.22 (2) Whenever any person, after applying for or receiving a license under
15 this chapter, an identification card under s. 343.50, or an identification certificate
16 under s. 343.505, moves from the address named in the application or in the license,
17 identification card, or identification certificate issued to him or her or is notified by
18 the local authorities or by the postal authorities that the address so named has been
19 changed, the person shall, within 30 days thereafter, do one of the following:

20 (a) Apply for a duplicate license, identification card, or identification certificate
21 showing on the application the correct full legal name and address. The licensee,
22 identification card holder, or identification certificate holder shall return the current
23 license, identification card, or identification certificate to the department along with
24 the application for duplicate.

1 (b) In lieu of applying for a duplicate license, identification card, or
2 identification certificate, notify the department in writing of his or her change of
3 address. This paragraph does not apply to persons issued a commercial driver
4 license.

5 **SECTION 26.** 343.22 (2m) of the statutes, as affected by 2007 Wisconsin Act 20,
6 section 3274, is repealed and recreated to read:

7 343.22 (2m) Whenever any person, after applying for or receiving a license
8 under this chapter, an identification card under s. 343.50, or an identification
9 certificate under s. 343.505, is notified by the local authorities or by the postal
10 authorities that the address named in the application or in the license, identification
11 card, or identification certificate issued to him or her has been changed and the
12 person applies for a duplicate license, identification card, or identification certificate
13 under sub. (2), no fees shall be charged under s. 343.21 (1) (L) and (n), 343.50 (5m)
14 and (7), or s. 343.505 (4) (a) 2. for the duplicate license, identification card, or
15 identification certificate.

16 **SECTION 27.** 343.22 (3) of the statutes, as affected by 2007 Wisconsin Act 20,
17 section 3276, is repealed and recreated to read:

18 343.22 (3) When the name of a licensee, identification card holder, or
19 identification certificate holder is changed, such person shall, within 30 days
20 thereafter, apply for a duplicate license, identification card, or identification
21 certificate showing the correct full legal name and address. The licensee,
22 identification card holder, or identification certificate holder shall return the current
23 license, identification card, or identification certificate to the department along with
24 the application for a duplicate. If the licensee holds more than one type of license
25 under this chapter, the licensee shall return all such licenses to the department along

1 with one application and fees for a duplicate license for which the licensee may be
2 issued a duplicate of each such license. ✓

3 **SECTION 28.** 343.235 (title) of the statutes is amended to read:

4 **343.235 (title) Access to license and identification card and certificate**
5 **records.** ✓

6 **SECTION 29.** 343.237 (title) of the statutes is amended to read:

7 **343.237 (title) Access to license and identification card and certificate**
8 **photographs and fingerprints.** ✓

9 **SECTION 30.** 343.237 (2) of the statutes, as affected by 2009 Wisconsin Act 167,
10 section 3, is repealed and recreated to read:

11 343.237 (2) Any photograph taken of an applicant under s. 343.14 (3), 343.50
12 (4), or 343.505 (2) (b), and any fingerprint taken of an applicant under s. 343.12 (6)
13 (b), may be maintained by the department and, except as provided in this section and
14 s. 165.8287, shall be kept confidential. Except as provided in this section and s.
15 165.8287, the department may release a photograph or fingerprint only to the person
16 whose photograph or fingerprint was taken or to the driver licensing agency of
17 another jurisdiction. ✓

18 **SECTION 31.** 343.237 (3) (intro.) of the statutes, as affected by 2007 Wisconsin
19 Act 20, is repealed and recreated to read:

20 343.237 (3) (intro.) The department shall provide a Wisconsin law enforcement
21 agency or a federal law enforcement agency with a print or electronic copy of a
22 photograph taken on or after September 1, 1997, of an applicant under s. 343.14 (3),
23 343.50 (4), or 343.505 (2) (b), or a printed or electronic copy of a fingerprint taken of
24 an applicant under s. 343.12 (6) (b), if the department receives a written request on
25 the law enforcement agency's letterhead that contains all of the following:

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SECTION 32. 343.237 (6) of the statutes is amended to read:

343.237 (6) For each copy of a photograph or fingerprint provided under sub. (3) or (4), the department shall record and maintain the written request for the copy of the photograph or fingerprint and may not disclose any record or other information concerning or relating to the written request to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, driver licensing agency of another jurisdiction, the applicant, licensee, or identification card or identification certificate holder or, if the applicant, licensee, or identification card or identification certificate holder is under 18 years of age, his or her parent or guardian.

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SECTION 33. 343.43 (2) of the statutes is amended to read:

343.43 (2) Whenever a license ~~or~~, identification card ~~which~~, or identification certificate that appears to be altered is displayed to a law enforcement officer, agent of the secretary or the court, that person shall take possession of the license ~~or~~, identification card, or identification certificate and return it to the department for cancellation. A notation of change of address properly endorsed on the license under s. 343.22 shall not of itself be reason to consider the license altered.

SECTION 34. Subchapter V (title) of chapter 343 [precedes 343.50] of the statutes is amended to read:

CHAPTER 343

SUBCHAPTER V

IDENTIFICATION CARDS

AND CERTIFICATES

✓

SECTION 35. 343.505 of the statutes is created to read:

1 **343.505 Identification certificates. (1) ISSUANCE.** (a) The department shall
2 issue, as provided in this section, identification certificates to eligible applicants
3 upon proper application and payment of all required fees.

4 (b) A person is eligible for an identification certificate under this section if the
5 person is a resident of this state and does not possess a valid operator's license or
6 identification card issued under this chapter.

7 **(2) APPLICATION.** (a) Every application to the department for an identification
8 certificate or for renewal of an identification certificate shall be made upon the
9 appropriate form furnished by the department and shall be accompanied by all
10 required fees. The application for an identification certificate shall include all of the
11 following:

12 1. The applicant's color of eyes, color of hair, sex, height, weight, and race.

13 2. a. Except as provided in subd. 2. b., the applicant's social security number.

14 b. If the applicant does not have a social security number, a statement made
15 or subscribed under oath or affirmation, on a form prescribed by the department,
16 that the applicant does not have a social security number. An identification
17 certificate issued or renewed in reliance on a statement submitted under this subd.

18 2. b. is invalid if the statement is false.

19 3. A statement as to whether the applicant holds any valid operator's license
20 or identification card issued by this state or any other jurisdiction.

21 4. A designation or reversal of a designation under s. 85.103 (2), if the applicant
22 chooses to make such designation or reversal.

23 5. Satisfactory proof of the applicant's name and date of birth.

1 6. Such further information as the department may reasonably require to
2 enable it to identify the applicant and to determine whether the applicant is entitled
3 by law to an identification certificate.

4 (b) 1. Except as provided in subd 2., the department shall, as part of the
5 application process, take a photograph of the applicant, which shall appear on the
6 identification certificate as provided in sub. (3). Except as provided in subd. 2., no
7 application may be processed without the photograph being taken.

8 2. An application for an identification certificate may be processed and an
9 original or renewal identification certificate issued under this section without a
10 photograph being taken if the applicant provides to the department an affidavit
11 stating that the applicant has a sincerely held religious belief against being
12 photographed; identifying the religion to which he or she belongs or the tenets of
13 which he or she adheres to; stating that the tenets of the religion prohibit him or her
14 from being photographed; and stating that he or she requests the identification
15 certificate for the purpose of voting.

16 (c) Names, addresses, and social security numbers obtained by the department
17 under this subsection shall be provided to the department of revenue for the purpose
18 of administering ss. 71.93 and 71.935 and state taxes.

19 **(3) DESIGN AND CONTENTS OF IDENTIFICATION CERTIFICATES.** (a) Identification
20 certificates shall be the same size as an operator's license but shall be of a design that
21 is readily distinguishable from the design of operator's licenses and identification
22 cards. Each identification certificate shall bear upon it the words
23 "IDENTIFICATION CERTIFICATE." Identification certificates shall clearly state
24 on their face that they may not be accepted by any federal agency for federal
25 identification or any other official purpose and shall use a unique design or color

1 indicator to alert federal agency and other law enforcement personnel that they may
2 not be accepted for any such purpose.

3 (b) The front side of the identification certificate shall include all of the
4 following:

- 5 1. The name, date of birth, and residence address of the person.
- 6 2. Except as provided in sub. (2) (b) 2., a color photograph of the person.
- 7 3. A physical description of the person, including sex, height, weight, and hair
8 and eye color, but excluding any mention of race.
- 9 4. The person's signature.
- 10 5. The name of this state.
- 11 6. A unique identifying identification certificate number assigned by the
12 department.
- 13 7. The date of issuance of the identification certificate.
- 14 8. The date of expiration of the identification certificate.
- 15 9. If the person has not attained the legal drinking age, as defined in s. 125.02
16 (8m), at the time of issuance of the identification certificate, a distinctive appearance
17 specified by the department that clearly identifies to the public that the person had
18 not attained the legal drinking age at the time of issuance of the identification
19 certificate.

20 (4) VALID PERIOD; FEES. (a) 1. The fee for an original identification certificate,
21 for renewal of an identification certificate, and for reinstatement of an identification
22 certificate after cancellation is \$18.

23 2. The fee for a duplicate identification certificate is \$6.

24 (b) An original or reinstated identification certificate shall be valid for the
25 succeeding period of 8 years from the applicant's next birthday after the date of

1 issuance, and a renewed identification certificate shall be valid for the succeeding
2 period of 8 years from the certificate's last expiration date.

3 (c) At least 30 days prior to the expiration of an identification certificate, the
4 department shall provide to the certificate holder notice of renewal of the certificate
5 either at the certificate holder's last-known address or, if desired by the certificate
6 holder, by any electronic means available to the department.

7 **(5) RECORDS AND OTHER INFORMATION.** (a) The department shall maintain
8 records of all identification certificate holders under this section in a manner
9 prescribed by the department by rule.

10 (b) The department may not disclose any record or other information
11 concerning or relating to an applicant or identification certificate holder to any
12 person other than a court, district attorney, county corporation counsel, city, village
13 or town attorney, law enforcement agency, driver licensing agency of another
14 jurisdiction, or the applicant or identification certificate holder. Except for
15 photographs for which disclosure is authorized under s. 343.237, persons entitled to
16 receive any record or other information under this paragraph shall not disclose the
17 record or other information to other persons or agencies. This paragraph does not
18 prohibit the disclosure of a person's name or address, of the name or address of a
19 person's employer, or of financial information that relates to a person when
20 requested under s. 49.22 (2m) by the department of children and families or a county
21 child support agency under s. 59.53 (5).

22 **(6) CANCELLATION.** (a) The department shall cancel an identification certificate
23 under any of the following circumstances:

24 1. Whenever the department determines that the identification certificate was
25 issued upon an application that contains a false statement as to any material matter.

1 2. Whenever the department determines that an identification certificate has
2 been altered and returned for cancellation under s. 343.43 (2).

3 (b) The department may order any person whose identification certificate has
4 been canceled to surrender the certificate to the department. The department may
5 take possession of any identification certificate required to be canceled or may direct
6 any traffic officer to take possession of the identification certificate and return it to
7 the department.

8 **(7) UNLAWFUL USE.** No person may do any of the following:

9 (a) Represent as valid any canceled, fictitious, or fraudulently altered
10 identification certificate.

11 (b) Sell or lend his or her identification certificate to any other person or
12 knowingly permit the use of his or her identification certificate by another.

13 (c) Represent as one's own, any identification certificate not issued to him or
14 her.

15 (d) Permit any unlawful use of an identification certificate issued to him or her.

16 (e) Reproduce by any means whatever an identification certificate.

17 (f) Deface or alter an identification certificate.

18 **(8) PENALTY.** Any person who fails to comply with an order under sub. (6) (b)
19 or who violates sub. (7) may be required to forfeit not more than \$1,000.

20 **(9) RULES.** The department shall promulgate rules to administer and enforce
21 this section. Subject to subs. (2) and (3), these rules shall prescribe the form of the
22 application for an identification certificate and specify the form and contents of the
23 identification certificate. The rules shall require the design of identification
24 certificates to be resistant to tampering and forgery. The rules shall also incorporate
25 the requirements under sub. (5) (a).

SECTION 9448. Effective dates; Transportation.

(1) DRIVER CARDS AND IDENTIFICATION CERTIFICATES.

(a) The treatment of sections 340.01 (41g), 343.03 (3) (f) and (g), 343.06 (1) (c), 343.07 (1j) and (7) (a) and (b), 343.085 (2m) (a) 1. b., and 343.17 (3) (a) 14. of the statutes and the creation of sections 343.09 and 343.505 (9) of the statutes takes effect on the first day of the 6th month beginning after publication.

(b) The amendment of sections 85.103 (2), 125.085 (1) (f), 134.71 (8) (a) 2., 139.30 (4n), 343.09 (1) (e), (6), and (7), 343.17 (1), 343.19 (title), (1), and (2) (intro.), 343.235 (title), 343.237 (title) and (6), and 343.43 (2) and subchapter V (title) of chapter 343 of the statutes, the repeal and recreation of sections 343.22 (2), (2m), and (3) and 343.237 (2) and (3) (intro.) of the statutes, and the creation of sections 343.19 (2) (c) and 343.505 (1) to (8) of the statutes take effect on the first day of the 6th month beginning after publication, or on the date on which the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect, whichever is later.

(c) The treatment of section 165.8287 (2) and (3) (d) of the statutes takes effect on March 1, 2011, or on the first day of the 6th month beginning after publication, whichever is later.

(END)

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Tuesday, February 08, 2011 8:28 AM
To: Gary, Aaron
Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Aaron,

Could you prepare the redraft of 0321 with the language that DOT has approved?

Thanks,

Tyler

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Tuesday, February 01, 2011 1:32 PM
To: Warren, Mitchell - DOT; Byrnes, Tyler - DOA
Cc: Richter, Anna - DOT; Kleist, Richard - DOT; Nilsen, Paul - DOT; Fernan, Patrick - DOT; Boardman, Kristina - DOT
Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Mitch and Tyler,

The attached draft is prepared for DOT, based upon DOT's instructions. It is also wholly incorporated into a preliminary draft of a sub to SB-6, as discussed, which I prepared for Rep. Stone. (That sub contains additional provisions not relevant to the attached draft and therefore not included in the attached draft.)

Please let me know if you need additional changes to this draft. When the draft meets with DOT's approval, I will redraft it into budget format for Tyler (that is, I will prepare it as a redraft of -0321).

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Warren, Mitchell - DOT [mailto:Mitchell.Warren@dot.wi.gov]
Sent: Thursday, January 27, 2011 3:10 PM
To: Gary, Aaron
Cc: Richter, Anna - DOT; Kuesel, Jeffery; Kleist, Richard - DOT; Nilsen, Paul - DOT; Byrnes, Tyler - DOA; Fernan, Patrick - DOT; Boardman, Kristina - DOT
Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Aaron,

2/8/2011

Item 1 is great, thank you.

Section 3 in the draft is ok, please leave it in.

Thanks for clarifying the effective date of Section 20.

I think we are good to go.

-Mitch

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Thursday, January 27, 2011 2:20 PM

To: Warren, Mitchell - DOT

Cc: Richter, Anna - DOT; Kuesel, Jeffery - LEGIS; Kleist, Richard - DOT; Nilsen, Paul - DOT; Byrnes, Tyler - DOA; Fernan, Patrick - DOT; Boardman, Kristina - DOT

Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Hi Mitch,

I've made these changes and I am rolling them into the sub for SB-6. Just a couple of comments/clarifications:

On item 1., I've drafted it to read: "343.03 (3r) Real ID Noncompliant license. If any license described under sub. (3) is issued based upon the exception specified in s. 343.165 (7), the license shall, in addition to any legend or label described in sub. (3), be marked in a manner consistent with requirements under applicable federal law and regulations to indicate that the license is issued in accordance with P.L. 109-13, section 202 (d) (11), and is not intended to be accepted by any federal agency for federal identification or any other official purpose." Please let me know if there is a problem with this language. Other provisions refer to "the marking" under this subsection.

On item 2., is section 3 in the draft OK? I'm thinking that you want to leave it in, but let me know if you intended that I pull it out.

On item 4., some of the effective dates are hard to read after Act 20, but bill section 20 in the draft does in fact become effective on the day after publication. [only the *repeal and recreation* of 343.50 (1) (c) is delayed]

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Warren, Mitchell - DOT [mailto:Mitchell.Warren@dot.wi.gov]

Sent: Thursday, January 27, 2011 11:14 AM

To: Gary, Aaron

2/8/2011

Cc: Richter, Anna - DOT; Kuesel, Jeffery; Kleist, Richard - DOT; Nilsen, Paul - DOT; Byrnes, Tyler - DOA; Fernan, Patrick - DOT; Boardman, Kristina - DOT

Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Hi Aaron, thank you for the excellent draft.

Here are 4 (hopefully minor) requests:

1. In referencing the legend that should appear on non-compliant cards (Section 1) we would prefer to have it be less prescriptive. What is included in the draft is the Dept. of Homeland Security's most recent language, but they've gone back and forth and it could very well change again. Perhaps something like "shall be marked in such a manner to meet federal requirements for a non-compliant product which may include text or symbol on the card and within the machine readable zone". Pardon the suggestion of language, but hopefully that conveys the idea.

2. In Sections 3 and 5 you asked about photo's on temporary licenses. Thank you for recognizing how we've changed and raising this issue.

All temporary licenses/driving receipts issued (including the new provisions added to 343.50 in this draft) will have a photo except those issued under 343.16(6)(b) and 343.305(8)(a), and except those products that are exempt from photo due to religious conviction etc. This is true today, and can be effective with the date of publication.

3. We would prefer the temporary licenses/driving receipts issued under 343.11 and 343.50(1)c be valid for up to 60 days.
4. Finally, for effective dates we would ask that Section 20 be effective date of publication. And, the other changes relating to driving receipts in 2 and 3 above can also be effective date of publication.

Thanks again, please let me know if you have further questions.

-Mitch

Mitchell Warren, Operations Chief
DMV Bureau of Field Services
WisDOT
Office (608) 266-2743
Mobile (608) 219-5616
mitchell.warren@dot.wi.gov

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Wednesday, January 26, 2011 2:43 PM

To: Warren, Mitchell - DOT; Kleist, Richard - DOT; Nilsen, Paul - DOT

Cc: Richter, Anna - DOT; Kuesel, Jeffery - LEGIS

Subject: FW: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

From: Basford, Sarah

Sent: Wednesday, January 26, 2011 2:38 PM

2/8/2011

To: Gary, Aaron

Subject: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Draft Requester: Transportation

Following is the PDF version of draft LRB 11-0765/P1.

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Mitch Stone
LRB-0385

12/20

He w/ Mitch & Rich

- create exception in 343.165

- driving receipts - ~~REAL ID~~ ~~amended~~

- includes photo →

- contains brand → marking

- eff. date - REAL ID

- authority for emergency rule-making?
out-of-state transfer

Gary, Aaron

From: Warren, Mitchell - DOT [Mitchell.Warren@dot.wi.gov]
Sent: Friday, January 07, 2011 10:28 AM
To: Gary, Aaron
Cc: Kleist, Richard - DOT; Boardman, Kristina - DOT; Conley, Laurie - DOT; Fernan, Patrick - DOT; Howard, Tracy - DOT; Richter, Anna - DOT; Byrnes, Tyler - DOA; Hammer, Paul - DOT; Newman, Kenneth - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1
Attachments: noncompliant card review.docx

Hi Aaron,

I hope you had a great holiday. Thanks for working with us on revising the "Non-Compliant" driver license/identification card budget request and non-budget request. I've included a bunch of DOT people on this e-mail as well as Tyler from DOA (thanks Tyler for allowing us to work directly with Aaron on the DOT budget request).

DMV's desire is to be given authority to issue driver licenses and identification cards that aren't subject to the requirements of the Federal REAL ID Act. We refer to these, and the REAL ID Act refers to these as "non-compliant", and they would be issued in tandem with REAL ID compliant products. This would provide customers the option of obtaining a compliant product (one that is valid for federal purposes), or electing to not go through the enrollment process and instead hold a non-compliant product (one that is not valid for federal purposes). I hope that makes sense.

We aren't interested in rolling back any current requirements that are in place for obtaining products (such as legal presence, proof of identity, etc.). To make matters more complicated, upon review of 2007 Act 20 (wherein REAL ID provisions are contained) we find that most provisions are fine applying to both compliant and non-compliant products but have a couple exceptions.

Our areas of concern are:

343.14(3) This repeals the authority to issue a product without a photo. We would like to be able to retain the ability to issue without photo for non-compliant products.

343.165(2) and (3) This requires the retention of documentation provided and the verification of documentation provided. We would like this to be permissive ("may"?) for non-compliant products.

I've attached a document showing the provisions we reviewed and marked in **red** the ones we had concerns about, it may or may not be helpful to you.

Finally, our main concern with REAL ID is that it requires all new applicants and **existing product holders** to provide a bunch of documentation, have it verified and retained by DOT. The purpose of non-compliant products is to allow Wisconsin folks who don't have a need for a driver license or ID card that is "valid for federal purposes" to not go through that, but to essentially maintain the process we have today.

Thanks again, please let Rick Kleist or myself know if we can be of assistance.

-Mitch

1/14/2011

Mitchell Warren, Operations Chief
DMV Bureau of Field Services
WisDOT
Office (608) 266-2743
Mobile (608) 219-5616
mitchell.warren@dot.wi.gov

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Tuesday, December 21, 2010 4:35 PM
To: Kleist, Richard - DOT
Cc: Warren, Mitchell - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Rick and Mitch,

Following up on our conversation yesterday, I wanted to give you a more concrete idea of what I'm planning to do with this draft. Attached is the beginning of a new draft to try to accomplish your objectives, as we discussed yesterday.

The attached draft is obviously very bare - it is the starting point. However, what I've attached is the essential framework on which I will build the rest of the draft. These provisions are the core of the draft and everything else will build around it. If there is clearly a problem with what I'm starting to do, please let me know. I'll probably work on this a little bit more, then I will wait for more details from you.

Thanks. Aaron <<11-0765_P1.pdf>>

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Kleist, Richard - DOT [mailto:Richard.Kleist@dot.wi.gov]
Sent: Friday, December 17, 2010 10:15 AM
To: Gary, Aaron
Cc: Warren, Mitchell - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Aaron, just to give you a brief idea what we want to talk about in the call, here are a few bullet points: (and I'll work from LRB-321/P1 since both drafts are basically the same)

- o Section 9, Section 11, Section 15 - "Driver cards" - It was our thought that we would just label in some fashion the current regular, probationary, and occupational licenses and instruction permits as "non REAL ID compliant" products and that they couldn't be used for "federal purposes". We really don't want to have to create entirely new products,

which the drafts seem to require as that would be very time consuming and costly, among other things.

- o Section 35 – “Identification Certificates” - Basically the same thoughts as the driver card, we had hoped to label the current identification card as “non REAL ID” compliant and use what we already have rather than creating a new type of identification card.
- o Not included in either draft, but possibly an issue is the fact all driver licenses and identification cards will be centrally issued so we will be issuing driving receipts for people to use until their product comes in the mail. The “non REAL ID compliant” issues come into play with the driving receipts also.
- o Real ID requires all driver licenses and identification cards contain a photograph of the applicant. Some people have serious religious beliefs against being photographed. This may be something that could fall into the “non REAL ID compliant” product arena.
- o Section 15, line 21 and 22 seems to imply applicants that cannot prove legal presence could obtain a “driver card” or “non REAL ID compliant” product. We need to still require proof of legal presence before we issue any type of product. (Legal presence doesn’t seem to be addressed for “identification certificates”)
- o The effective date of DMV’s ability to issue “non REAL ID compliant” products should coincide with the date DMV begins issuing REAL ID products.

As I mentioned, these are just a few of our thoughts. I figured you might appreciate having a heads-up on what we are thinking about.

Rick

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Thursday, December 16, 2010 4:04 PM
To: Kleist, Richard - DOT
Cc: Warren, Mitchell - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Hi Rick,

I think 1:00 pm on Mon. would work, although 1:30 pm would be better. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Kleist, Richard - DOT [<mailto:Richard.Kleist@dot.wi.gov>]
Sent: Thursday, December 16, 2010 2:03 PM
To: Gary, Aaron
Cc: Warren, Mitchell - DOT

1/14/2011

Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Hi Aaron, I don't think there is really enough time yet this afternoon and Mitch is unavailable tomorrow, so how about if we give you a call around 1PM on Monday?

Rick

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Thursday, December 16, 2010 1:37 PM
To: Kleist, Richard - DOT
Cc: Warren, Mitchell - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Hi Rick,

I'll be around today, most of the day tomorrow, Monday afternoon, and all day Tuesday. Let me know what day/time works for you. Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Kleist, Richard - DOT [<mailto:Richard.Kleist@dot.wi.gov>]
Sent: Thursday, December 16, 2010 9:37 AM
To: Gary, Aaron
Cc: Warren, Mitchell - DOT
Subject: LRB-11-0038P1 and LRB-11-0321P1

Aaron, would you have some time in the next 2-3 days to talk with Mitch Warren and I via the telephone about the two LRB drafts mentioned above? We have some comments and concerns about both drafts and it may be easier to describe them verbally rather than via email. I have attached copies of the drafts for your convenience.

<< File: 11-0038P1.pdf >> << File: 11-0321P1.pdf >>

Thanks for your consideration Aaron,

Rick Kleist
Legislative Liaison
Wisconsin Division of Motor Vehicles
608-266-1449
Richard.Kleist@dot.wi.gov

Provisions to Consider for Non-compliant Cards

85.515	Establishes effective date of REAL ID provisions
343.027	Adds courts; district attorneys; county corporation counsels; city, village and town attorneys; law enforcement agencies and driver license agencies of other jurisdictions to the list of entities that DOT can release signatures
343.03(3m)	Non-citizens with pending status shall have a legend indicating temporary on the license
343.03(6)a	DOT shall provide electronic access to applications for CDLIS and driver license agencies of other jurisdictions
343.06(1)(j)	Repeals the requirement to provide proof of name and date of birth. Shows up in a different form later in 343.165.
343.06(1)(L)	Adds the processing requirements of 343.165 to the persons not to be licensed provisions
343.10(2)(a)(intro.)	Gives DOT authority to require by rule that occupationals must meet the same requirements as initial issuance or renewal
343.10(7)(b)	same as above
343.10(7)(f)	Requires occupationals to expire with legal presence expiration
343.14(2)(a)	Application shall contain full legal name and date of birth
343.14(2)(br)	Changes requirements for applicants that do not have a SSN
343.14(2)(es)(intro.)	Changes legal presence requirements
343.14(2)(es)1. and 4.	Changes legal presence requirements
343.14(2)(f)	Adds the processing requirements of 343.165 to the application provisions
343.14(3)	Repeals valid without photo
343.165	Creates new requirements for "processing license and ID applications" <ul style="list-style-type: none"> • Identification document • Documentation of date of birth • Proof of SSN • Documentation with name and address of principal residence • Proof of legal presence • Scanning and storage of all documentation • Verification of all documentation • Allows driver receipts
343.17(2)	License document shall contain security features consistent with any requirement in federal law

Gary, Aaron

From: Gary, Aaron
Sent: Friday, January 14, 2011 2:23 PM
To: Warren, Mitchell - DOT
Cc: Kleist, Richard - DOT; Byrnes, Tyler - DOA
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Mitch,

As I understand the materials provided, you want the "noncitizen temporary" legend under s. 343.03 (3m) and the early expiration under s. 343.20 (1m) to apply to non-compliant products (when applicable). You do not want to restore the option for non-compliant licenses (after REAL ID goes into effect, under what would be the "old" 343.14 (2) (br)) for someone who does not have a SSN. You do not want changes to what is in s. 343.165 (1), so the identity requirements under this sub. (1) for non-compliant and for REAL ID compliant licenses will be the same. In other words, the requirements imposed on the customer won't change; what will change is the processing by DOT. Accordingly, post-REAL ID s. 343.06 (1) (L) will continue to work as it relates to s. 343.165 (1), at least.

Please let me know if my assumptions are incorrect or if I have misconstrued your instructions.

Thanks. Have a good weekend. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Warren, Mitchell - DOT [mailto:Mitchell.Warren@dot.wi.gov]

Sent: Friday, January 07, 2011 10:28 AM

To: Gary, Aaron

Cc: Kleist, Richard - DOT; Boardman, Kristina - DOT; Conley, Laurie - DOT; Fernan, Patrick - DOT; Howard, Tracy - DOT; Richter, Anna - DOT; Byrnes, Tyler - DOA; Hammer, Paul - DOT; Newman, Kenneth - DOT

Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Hi Aaron,

I hope you had a great holiday. Thanks for working with us on revising the "Non-Compliant" driver license/identification card budget request and non-budget request. I've included a bunch of DOT people on this e-mail as well as Tyler from DOA (thanks Tyler for allowing us to work directly with Aaron on the DOT budget request).

DMV's desire is to be given authority to issue driver licenses and identification cards that aren't subject to the requirements of the Federal REAL ID Act. We refer to these, and the REAL ID Act refers to these as "non-compliant", and they would be issued in tandem with REAL ID compliant products. This would provide customers the option of obtaining a compliant product (one that is valid for federal purposes), or electing to not go through the enrollment process and instead hold a non-compliant product (one that is not valid for federal purposes). I hope that makes sense.

1/24/2011

1/24 Hc v
Mitch

everything
is
correct
here

Gary, Aaron

From: Warren, Mitchell - DOT [Mitchell.Warren@dot.wi.gov]
Sent: Tuesday, January 25, 2011 2:51 PM
To: Gary, Aaron
Cc: Kleist, Richard - DOT; Nilsen, Paul - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Aaron,

Thanks for the catch on ID Card receipts as created in 343.50(1)c. Yes, please speed up the process for us, and yes the 30-day period is acceptable. Thank you again.

-Mitch

From: Gary, Aaron [Aaron.Gary@legis.wisconsin.gov]
Sent: Tuesday, January 25, 2011 2:43 PM
To: Warren, Mitchell - DOT
Cc: Kleist, Richard - DOT; Nilsen, Paul - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

FYI, I expect to have a first cut of the REAL ID non-compliant draft to you yet this week. It will be LRB-0765/P1. I'd like to get that nailed down as soon as we can, because that is what will be inserted into the sub. for SB-6. I don't have any word yet on when the sponsors will need the sub for SB-6, but I expect it will be fairly soon.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
 608.261.6926 (voice)
 608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Aaron
Sent: Tuesday, January 25, 2011 12:41 PM
To: Warren, Mitchell - DOT
Cc: Kleist, Richard - DOT; Kuesel, Jeffery; Nilsen, Paul - DOT
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Mitch,

Thank you for your call yesterday to discuss the questions below and changes to SB-6.

As you instructed, the driving receipt under s. 343.11 will be added as an acceptable form of proof of identification in SB-6. My understanding is that, as DOT moves from over-the-counter issuance to central issuance, the driving receipt may be an important form of identification while the customer waits for the driver's license to be mailed.

As I understand it, DOT will also be moving to central issuance of the identification card so I believe the same concern would apply there. However, if I am not mistaken, an identification card receipt will not be issued by DOT until DOT implements REAL ID (see created s. 343.50 (1) (c), effective with REAL ID). In the draft that I am preparing, can I speed this process up? Can I move the timeframe for s. 343.50 (1) (c) up to enactment of this legislation (presumably SB-6 or, if not, the budget bill), rather than wait for REAL ID implementation? If so, is the 30 day period in s. 343.50 (1) (c) still acceptable?

1/25/2011

Thanks. Aaron

Aaron R. Gary
 Attorney, Legislative Reference Bureau
 608.261.6926 (voice)
 608.264.6948 (fax)
 aaron.gary@legis.state.wi.us

From: Gary, Aaron
Sent: Friday, January 14, 2011 2:23 PM
To: Warren, Mitchell - DOT
Cc: Kleist, Richard - DOT; Byrnes, Tyler - DOA
Subject: RE: LRB-11-0038P1 and LRB-11-0321P1

Mitch,

As I understand the materials provided, you want the "noncitizen temporary" legend under s. 343.03 (3m) and the early expiration under s. 343.20 (1m) to apply to non-compliant products (when applicable). You do not want to restore the option for non-compliant licenses (after REAL ID goes into effect, under what would be the "old" 343.14 (2) (br)) for someone who does not have a SSN. You do not want changes to what is in s. 343.165 (1), so the identity requirements under this sub. (1) for non-compliant and for REAL ID compliant licenses will be the same. In other words, the requirements imposed on the customer won't change; what will change is the processing by DOT. Accordingly, post-REAL ID s. 343.06 (1) (L) will continue to work as it relates to s. 343.165 (1), at least.

Please let me know if my assumptions are incorrect or if I have misconstrued your instructions.

Thanks. Have a good weekend. Aaron

Aaron R. Gary
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 aaron.gary@legis.state.wi.us

1/24 H/c w/ Mitch

- ID cards w/o photo
- non-compliant DL & ID cards, both w/o photo (photo exception)
- add ²⁰⁰⁹ LRB-0603 - section 3 - CAC drawing receipts

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, January 27, 2011 2:20 PM
To: Warren, Mitchell - DOT
Cc: Richter, Anna - DOT; Kuesel, Jeffery; Kleist, Richard - DOT; Nilsen, Paul - DOT; Byrnes, Tyler - DOA; Fernan, Patrick - DOT; Boardman, Kristina - DOT
Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Hi Mitch,

I've made these changes and I am rolling them into the sub for SB-6. Just a couple of comments/clarifications:

On item 1., I've drafted it to read: "343.03 (3r) Real ID Noncompliant license. If any license described under sub. (3) is issued based upon the exception specified in s. 343.165 (7), the license shall, in addition to any legend or label described in sub. (3), be marked in a manner consistent with requirements under applicable federal law and regulations to indicate that the license is issued in accordance with P.L. 109-13, section 202 (d) (11), and is not intended to be accepted by any federal agency for federal identification or any other official purpose." Please let me know if there is a problem with this language. Other provisions refer to "the marking" under this subsection.

On item 2., is section 3 in the draft OK? I'm thinking that you want to leave it in, but let me know if you intended that I pull it out.

On item 4., some of the effective dates are hard to read after Act 20, but bill section 20 in the draft does in fact become effective on the day after publication. [only the *repeal and recreation* of 343.50 (1) (c) is delayed]

Thanks. Aaron

Aaron R. Gary
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From: Warren, Mitchell - DOT [mailto:Mitchell.Warren@dot.wi.gov]
Sent: Thursday, January 27, 2011 11:14 AM
To: Gary, Aaron
Cc: Richter, Anna - DOT; Kuesel, Jeffery; Kleist, Richard - DOT; Nilsen, Paul - DOT; Byrnes, Tyler - DOA; Fernan, Patrick - DOT; Boardman, Kristina - DOT
Subject: RE: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Hi Aaron, thank you for the excellent draft.

1/27/2011

Here are 4 (hopefully minor) requests:

1. In referencing the legend that should appear on non-compliant cards (Section 1) we would prefer to have it be less prescriptive. What is included in the draft is the Dept. of Homeland Security's most recent language, but they've gone back and forth and it could very well change again. Perhaps something like "shall be marked in such a manner to meet federal requirements for a non-compliant product which may include text or symbol on the card and within the machine readable zone". Pardon the suggestion of language, but hopefully that conveys the idea.
2. In Sections 3 and 5 you asked about photo's on temporary licenses. Thank you for recognizing how we've changed and raising this issue.

All temporary licenses/driving receipts issued (including the new provisions added to 343.50 in this draft) will have a photo except those issued under 343.16(6)(b) and 343.305(8)(a), and except those products that are exempt from photo due to religious conviction etc. This is true today, and can be effective with the date of publication.

3. We would prefer the temporary licenses/driving receipts issued under 343.11 and 343.50(1)c be valid for up to 60 days.
4. Finally, for effective dates we would ask that Section 20 be effective date of publication. And, the other changes relating to driving receipts in 2 and 3 above can also be effective date of publication.

Thanks again, please let me know if you have further questions.

-Mitch

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From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Wednesday, January 26, 2011 2:43 PM
To: Warren, Mitchell - DOT; Kleist, Richard - DOT; Nilsen, Paul - DOT
Cc: Richter, Anna - DOT; Kuesel, Jeffery - LEGIS
Subject: FW: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

From: Basford, Sarah
Sent: Wednesday, January 26, 2011 2:38 PM
To: Gary, Aaron
Subject: Draft review: LRB 11-0765/P1 Topic: Allow DOT to issue non REAL ID compliant products (NB 1113 01)

Draft Requester: Transportation

1/27/2011



* [LPS: FROM 2011 LRB-0765/P2]

State of Wisconsin
2011 - 2012 LEGISLATURE

in
2/9



LRB-0765/P2
ARG:jld&nwn:rs

-0321/2
↑

DOA

↑ (RMNR)

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

* Editors/LPS: note that redraft is based on a different LRB

✓ DO NOT GEN

1 AN ACT *to renumber* 343.50 (1); *to amend* 343.06 (1) (L), 343.10 (7) (d), 343.11
2 (1), 343.11 (3), 343.11 (3), 343.14 (3), 343.165 (1) (intro.), 343.165 (2), 343.165
3 (3) (a), 343.165 (4) (a), 343.165 (4) (c), 343.165 (4) (d), 343.165 (5), 343.17 (3) (a)
4 2., 343.17 (5), 343.50 (3) and 343.50 (4); *to repeal and recreate* 343.17 (5),
5 343.50 (1), 343.50 (3) and 343.50 (4); and *to create* 343.03 (3r), 343.14 (3m),
6 343.165 (7), 343.17 (3) (a) 14., 343.50 (1) (c) and 343.50 (4g) of the statutes;

7 relating to: ~~the issuance of operator's licenses and identification cards by the~~
8 ~~Department of Transportation.~~ (insert 1-7) ✓

Analysis by the Legislative Reference Bureau

Insert ANAL-A → (no ff) Under 2007 Wisconsin Act 20 (the biennial budget act), certain provisions specified in the federal REAL ID Act are incorporated into state law when ~~the~~ Department of Transportation DOT provides notice that it is ready to implement the federal REAL ID Act. Among these provisions is the requirement that DOT follow certain procedures in processing applications for driver's licenses and identification cards and that each driver's license and identification card include a photograph.

This bill allows DOT, upon the implementation of the federal REAL ID Act in Wisconsin, to process applications for driver's licenses and identification cards in a

manner other than that required by REAL ID if the driver's licenses and identification cards are marked to indicate that they are not REAL ID[✓]compliant and DOT processes the applications in compliance with DOT practices and procedures applicable immediately prior to implementation of REAL ID. An applicant for a REAL ID noncompliant driver's license or identification card will still be required to provide to DOT: 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth, which may be the same as item 1); 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) documentary proof that the applicant is a U.S. citizen or is otherwise lawfully present in the United States. However, in processing an application for a REAL ID noncompliant[✓] driver's license or identification card, DOT is not required to meet the standards for document retention and verification that are imposed for REAL ID compliant products.

Current law provides for limited exceptions allowing DOT to issue a driver's license that does not contain a photograph of the license holder, including, by DOT rule, a religious belief exception. There are no similar photograph exceptions under current law for identification cards. Under current law, after the implementation of REAL ID, all REAL ID compliant driver's licenses and identification cards must contain a photograph.

Under this bill, until the implementation of the federal REAL ID Act[✓], the photograph exception for driver's licenses continues and a new religious belief photograph exception is created for identification cards. After the implementation of REAL ID, this bill creates a religious belief photograph exception for REAL ID noncompliant driver's licenses and identification cards. *

* For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.03 (3r) of the statutes is created to read:

2 343.03 (3r) REAL ID NONCOMPLIANT LICENSE. If any license described under sub.
3 (3) is issued based upon the exception specified in s. 343.165 (7), the license shall, in
4 addition to any legend or label described in sub. (3), be marked in a manner
5 consistent with requirements under applicable federal law and regulations to
6 indicate that the license is issued in accordance with P.L. 109-13, section 202 (d) (11),

1 and is not intended to be accepted by any federal agency for federal identification or
2 any other official purpose.

3 **SECTION 2.** 343.06 (1) (L) of the statutes, as affected by 2007 Wisconsin Act 20,
4 is amended to read:

5 343.06 **(1)** (L) To any person who does not satisfy the requirements under s.
6 343.165 (1).

7 **SECTION 3.** 343.10 (7) (d) of the statutes, as affected by 2007 Wisconsin Act 20,
8 is amended to read:

9 343.10 **(7)** (d) An occupational license issued by the department under this
10 subsection shall be in the form of a license that includes a photograph described in
11 s. 343.14 (3), unless the exception under s. 343.14 (3m) applies, and any special
12 restrictions cards under s. 343.17 (4). The license shall clearly indicate that
13 restrictions on a special restrictions card apply and that the special restrictions card
14 is part of the person's license.

15 **SECTION 4.** 343.11 (1) of the statutes is amended to read:

16 343.11 **(1)** The department shall not issue a license to a person previously
17 licensed in another jurisdiction unless such person surrenders to the department all
18 valid operator's licenses possessed by the person issued by any other jurisdiction,
19 which surrender operates as a cancellation of the surrendered licenses insofar as the
20 person's privilege to operate a motor vehicle in this state is concerned. When such
21 applicant surrenders the license to the department, the department shall issue a
22 receipt therefor, which receipt shall constitute a temporary license to operate a motor
23 vehicle for a period not to exceed 60 days if the applicant meets the standard required
24 for eyesight and, in the opinion of the examiner, is not a dangerous hazard to the
25 applicant and other users of the highways. ~~Except as provided in s. 343.055, the~~

SECTION 4

1 ~~temporary license shall not be valid authorization for the operation of commercial~~
2 ~~motor vehicles.~~ The temporary license shall be surrendered to the examiner for
3 cancellation by the department if the 3rd attempt at the driving test is failed and the
4 applicant shall be required to secure a temporary instruction permit for further
5 practice driving.

6 **SECTION 5.** 343.11 (3) of the statutes is amended to read:

7 343.11 (3) Except as provided in sub. (1), the department may issue a receipt
8 to any applicant for a license, which receipt shall constitute a temporary license to
9 operate a motor vehicle while the application for license is being processed. Such
10 temporary license shall be valid for a period not to exceed 30 60 days.

11 **SECTION 6.** 343.11 (3) of the statutes, as affected by 2011 Wisconsin Act (this
12 act), is amended to read:

13 343.11 (3) Except as provided in sub. (1), the department may issue a receipt
14 to any applicant for a license, which receipt shall constitute a temporary license to
15 operate a motor vehicle while the application for license is being processed. Such
16 temporary license shall be valid for a period not to exceed 60 days. If the application
17 for a license is processed under the exception specified in s. 343.165 (7), the receipt
18 shall include the marking specified in s. 343.03 (3r).

19 **SECTION 7.** 343.14 (3) of the statutes, as affected by 2007 Wisconsin Act 20, is
20 amended to read:

21 343.14 (3) The Except as provided in sub. (3m), the department shall, as part
22 of the application process, take a digital photograph including facial image capture
23 of the applicant to comply with s. 343.17 (3) (a) 2. No Except as provided in sub. (3m),
24 no application may be processed without the photograph being taken. Except as
25 provided in sub. (3m) and s. 343.165 (4) (d), in the case of renewal licenses, the

1 photograph shall be taken once every 8 years, and shall coincide with the appearance
2 for examination which is required under s. 343.16 (3).

3 **SECTION 8.** 343.14 (3m) of the statutes is created to read:

4 343.14 **(3m)** If the application for a license is processed under the exception
5 specified in s. 343.165 (7), the application may be processed and the license issued
6 or renewed without a photograph being taken of the applicant if the applicant
7 provides to the department an affidavit stating that the applicant has a sincerely
8 held religious belief against being photographed; identifying the religion to which he
9 or she belongs or the tenets of which he or she adheres to; and stating that the tenets
10 of the religion prohibit him or her from being photographed.

11 **SECTION 9.** 343.165 (1) (intro.) of the statutes, as created by 2007 Wisconsin Act
12 20, is amended to read:

13 343.165 **(1)** (intro.) The Subject to ss. 343.14 (3m) and 343.50 (4g), the
14 department may not complete the processing of an application for initial issuance or
15 renewal of an operator's license or identification card received by the department
16 after ~~May 10, 2008~~ the effective date of this subsection [LRB inserts date], and no
17 such license or identification card may be issued or renewed, unless the applicant
18 presents or provides, and, subject to sub. (7), the department verifies under sub. (3),
19 all of the following information:

20 **SECTION 10.** 343.165 (2) of the statutes, as created by 2007 Wisconsin Act 20,
21 is amended to read:

22 343.165 **(2)** (a) The Subject to sub. (7), the department shall, in processing any
23 application for an operator's license or identification card under sub. (1), capture a
24 digital image of each document presented or provided to the department by an
25 applicant. Images captured under this paragraph shall be maintained, in electronic

1 storage and in a transferable format, in the applicant's file or record as provided
2 under ss. 343.23 (2) (a) and 343.50 (8) (a).

3 (b) ~~The Subject to sub. (7),~~ the department shall record in the applicant's file
4 under s. 343.23 (2) (a) or record under s. 343.50 (8) (a) the date on which verification
5 under subs. (1) and (3) is completed.

6 **SECTION 11.** 343.165 (3) (a) of the statutes, as created by 2007 Wisconsin Act
7 20, is amended to read:

8 343.165 (3) (a) Except as provided in pars. (b) and (c) and subject to sub. (7),
9 the department shall verify, in the manner and to the extent required under federal
10 law, each document presented or provided to the department that is required to be
11 presented or provided to the department by an applicant under sub. (1).

12 **SECTION 12.** 343.165 (4) (a) of the statutes, as created by 2007 Wisconsin Act
13 20, is amended to read:

14 343.165 (4) (a) Subsection (1) does not apply to an application for renewal of
15 an operator's license or identification card received by the department after ~~May 10,~~
16 ~~2008~~ the effective date of this paragraph [LRB inserts date], if in connection with
17 a prior application after ~~May 10, 2008~~ the effective date of this paragraph [LRB
18 inserts date], the applicant previously presented or provided, and the department
19 verified under sub. (3) or (7), the information specified in sub. (1) and, if verified
20 under sub. (3), the department recorded the date on which the verification
21 procedures were completed as described in sub. (2) (b).

22 **SECTION 13.** 343.165 (4) (c) of the statutes, as created by 2007 Wisconsin Act
23 20, is amended to read:

24 343.165 (4) (c) Notwithstanding pars. (a) and (b), no operator's license
25 displaying the legend required under s. 343.03 (3m) or identification card displaying

1 the legend required under s. 343.50 (3) (a) may be renewed unless the applicant
2 presents or provides valid documentary proof under sub. (1) (e) and this proof shows
3 that the status by which the applicant qualified for the license or identification card
4 has been extended by the secretary of the federal department of homeland security.

5 **SECTION 14.** 343.165 (4) (d) of the statutes, as created by 2007 Wisconsin Act
6 20, is amended to read:

7 343.165 (4) (d) With any license or identification card renewal following a
8 license or identification card expiration established under s. 343.20 (1m) or 343.50
9 (5) (c) at other than an 8-year interval, the department may determine whether the
10 applicant's photograph is to be taken, or if the renewal is for a license the applicant
11 is to be examined, or both, at the time of such renewal, so long as the applicant's
12 photograph is taken, and if the renewal is for a license the applicant is examined,
13 with a license or card renewal at least once every 8 years and the applicant's license
14 or identification card at all times includes a photograph unless an exception under
15 s. 343.14 (3m) or 343.50 (4g) applies.

16 **SECTION 15.** 343.165 (5) of the statutes, as created by 2007 Wisconsin Act 20,
17 is amended to read:

18 343.165 (5) The department may, by rule, require that applications for
19 reinstatement of operator's licenses or identification cards, issuance of occupational
20 licenses, reissuance of operator's licenses, or issuance of duplicate operator's licenses
21 or identification cards, received by the department after May 10, 2008 the effective
22 date of this subsection [LRB inserts date], be processed in a manner consistent
23 with the requirements established under this section for applications for initial
24 issuance or renewal of operator's licenses and identification cards.

25 **SECTION 16.** 343.165 (7) of the statutes is created to read:

SECTION 16

1 343.165 (7) (a) The department may process an application for, and issue or
2 renew, an operator's license or identification card without meeting the requirements
3 under subs. (2) and (3) if all of the following apply:

4 1. The operator's license contains the marking specified in s. 343.03 (3r) or the
5 identification card contains the marking specified in s. 343.50 (3) (b).

6 2. The operator's license or identification card is processed and issued or
7 renewed in compliance with applicable department practices and procedures that
8 were in effect immediately prior to the effective date of this subdivision [LRB
9 inserts date].

10 (b) In addition to other instances of original issuance or renewal, this
11 subsection specifically applies to renewals occurring after the effective date of this
12 paragraph [LRB inserts date], of operator's licenses or identification cards
13 originally issued prior to the effective date of this paragraph [LRB inserts date].

14 **SECTION 17.** 343.17 (3) (a) 2. of the statutes is amended to read:

15 343.17 (3) (a) 2. A color photograph of the person, unless the exception under
16 s. 343.14 (3m) applies.

17 **SECTION 18.** 343.17 (3) (a) 14. of the statutes is created to read:

18 343.17 (3) (a) 14. If the license contains the marking specified in s. 343.03 (3r),
19 a distinctive appearance specified by the department that clearly distinguishes the
20 license from other operator's licenses or identification cards issued by the
21 department and that alerts federal agency and other law enforcement personnel that
22 the license may not be accepted for federal identification or any other official
23 purpose.

24 **SECTION 19.** 343.17 (5) of the statutes is amended to read:

1 343.17 (5) NO PHOTOS ON TEMPORARY LICENSES. The temporary licenses issued
2 under ss. 343.10, 343.11 (1) and (3), 343.16 (6) (b), and 343.305 (8) (a) shall be on
3 forms provided by the department and shall contain the information required by sub.
4 (3), except ~~the license is that temporary licenses under ss. 343.16 (6) (b) and 343.305~~
5 (8) (a) are not required to include a photograph of the licensee.

6 **SECTION 20.** 343.17 (5) of the statutes, as affected by 2007 Wisconsin Act 20 and
7 2011 Wisconsin Act (this act), is repealed and recreated to read:

8 343.17 (5) NO PHOTOS ON TEMPORARY LICENSES. The temporary licenses issued
9 under ss. 343.10, 343.11 (1) and (3), 343.16 (6) (b), and 343.305 (8) (a) shall be on
10 forms provided by the department and shall contain the information required by sub.
11 (3), except that temporary licenses under ss. 343.16 (6) (b) and 343.305 (8) (a) are not
12 required to include a photograph of the licensee. This subsection does not apply to
13 a noncitizen temporary license, as described in s. 343.03 (3m).

14 **SECTION 21.** 343.50 (1) of the statutes is renumbered 343.50 (1) (a).

15 **SECTION 22.** 343.50 (1) of the statutes, as affected by 2007 Wisconsin Act 20 and
16 2011 Wisconsin Act (this act), is repealed and recreated to read:

17 343.50 (1) (a) Subject to par. (b) and s. 343.165, the department shall issue to
18 every qualified applicant, who has paid all required fees, an identification card as
19 provided in this section.

20 (b) The department may not issue an identification card to a person previously
21 issued an operator's license in another jurisdiction unless the person surrenders to
22 the department any valid operator's license possessed by the person issued by
23 another jurisdiction, which surrender operates as a cancellation of the license insofar
24 as the person's privilege to operate a motor vehicle in this state is concerned. Within
25 30 days following issuance of the identification card under this section, the

1 department shall destroy any operator's license surrendered under this paragraph
2 and report to the jurisdiction that issued the surrendered operator's license that the
3 license has been destroyed and the person has been issued an identification card in
4 this state.

5 (c) The department may issue a receipt to any applicant for an identification
6 card, which receipt shall constitute a temporary identification card while the
7 application is being processed and shall be valid for a period not to exceed 60 days.
8 If the application for an identification card is processed under the exception specified
9 in s. 343.165 (7), the receipt shall include the marking specified in sub. (3) (b).

10 **SECTION 23.** 343.50 (1) (c) of the statutes is created to read:

11 343.50 (1) (c) The department may issue a receipt to any applicant for an
12 identification card, which receipt shall constitute a temporary identification card
13 while the application is being processed and shall be valid for a period not to exceed
14 60 days.

15 **SECTION 24.** 343.50 (3) of the statutes is amended to read:

16 343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as
17 an operator's license but shall be of a design which is readily distinguishable from
18 the design of an operator's license and bear upon it the words "IDENTIFICATION
19 CARD ONLY". The information on the card shall be the same as specified under s.
20 343.17 (3). The card may serve as a record of gift under s. 157.06 (2) (t) and the holder
21 may affix a sticker thereto as provided in s. 343.175 (3). The card may also serve as
22 a record of refusal under s. 157.06 (2) (u). The Except as provided in sub. (4g), the
23 card shall contain the holder's photograph and, if applicable, shall be of the design
24 specified under s. 343.17 (3) (a) 12.

1 **SECTION 25.** 343.50 (3) of the statutes, as affected by 2007 Wisconsin Act 20 and
2 2011 Wisconsin Act (this act), is repealed and recreated to read:

3 **343.50 (3) DESIGN AND CONTENTS OF CARD.** (a) The card shall be the same size
4 as an operator's license but shall be of a design which is readily distinguishable from
5 the design of an operator's license and bear upon it the words "IDENTIFICATION
6 CARD ONLY." The information on the card shall be the same as specified under s.
7 343.17 (3). If the issuance of the card requires the applicant to present any
8 documentary proof specified in s. 343.14 (2) (es) 4. to 7., the card shall display, on the
9 front side of the card, a legend identifying the card as temporary. The card shall
10 contain physical security features consistent with any requirement under federal
11 law. The card may serve as a record of gift under s. 157.06 (2) (t) and the holder may
12 affix a sticker thereto as provided in s. 343.175 (3). The card may also serve as a
13 record of refusal under s. 157.06 (2) (u). Except as provided in sub. (4g), the card shall
14 contain the holder's photograph and, if applicable, shall be of the design specified
15 under s. 343.17 (3) (a) 12.

16 (b) If an identification card is issued based upon the exception specified in s.
17 343.165 (7), the card shall, in addition to any other required legend or design, be of
18 the design specified under s. 343.17 (3) (a) 14. and include a marking similar or
19 identical to the marking described in s. 343.03 (3r).

20 **SECTION 26.** 343.50 (4) of the statutes is amended to read:

21 **343.50 (4) APPLICATION.** The application for an identification card shall include
22 any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), (br), (em),
23 and (er), and such further information as the department may reasonably require to
24 enable it to determine whether the applicant is entitled by law to an identification
25 card. The Except as provided in sub. (4g), the department shall, as part of the

1 application process, take a photograph of the applicant to comply with sub. (3). No
2 Except as provided in sub. (4g), no application may be processed without the
3 photograph being taken. Misrepresentations in violation of s. 343.14 (5) are
4 punishable as provided in s. 343.14 (9).

5 **SECTION 27.** 343.50 (4) of the statutes, as affected by 2007 Wisconsin Act 20 and
6 2011 Wisconsin Act (this act), is repealed and recreated to read:

7 343.50 (4) APPLICATION. The application for an identification card shall include
8 any information required under ss. 85.103 (2) and 343.14 (2) (a), (b), (bm), (br), (em),
9 and (es), and such further information as the department may reasonably require to
10 enable it to determine whether the applicant is entitled by law to an identification
11 card. Except with respect to renewals described in s. 343.165 (4) (d) and except as
12 provided in sub. (4g), the department shall, as part of the application process, take
13 a digital photograph including facial image capture of the applicant to comply with
14 sub. (3) (a). Except with respect to renewals described in s. 343.165 (4) (d) and except
15 as provided in sub. (4g), no application may be processed without the photograph
16 being taken. Misrepresentations in violation of s. 343.14 (5) are punishable as
17 provided in s. 343.14 (9).

18 **SECTION 28.** 343.50 (4g) of the statutes is created to read:

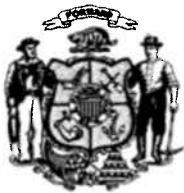
19 343.50 (4g) PHOTOGRAPH REQUIREMENT: EXCEPTION. If the application for an
20 identification card is processed under the exception specified in s. 343.165 (7), the
21 application may be processed and the identification card issued or renewed without
22 a photograph being taken of the applicant if the applicant provides to the department
23 an affidavit stating that the applicant has a sincerely held religious belief against
24 being photographed; identifying the religion to which he or she belongs or the tenets

1 of which he or she adheres to; and stating that the tenets of the religion prohibit him
2 or her from being photographed.

3 **SECTION 29. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of sections 343.03 (3r), 343.06 (1) (L), 343.10 (7) (d), 343.11
6 (3) (by SECTION 6), 343.14 (3) and (3m), 343.165 (1) (intro.), (2), (3) (a), (4) (a), (c), and
7 (d), (5), and (7), 343.17 (3) (a) 2. and 14., and 343.50 (4g) of the statutes and the repeal
8 and recreation of sections 343.17 (5) and 343.50 (1), (3), and (4) of the statutes take
9 effect on the day after publication or on the date on which the creation of section
10 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect, whichever is later.

11 (END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0321/1

ARG:kjf:rs

DOA:.....Byrnes, BB0123 - Allow DOT to issue non REAL ID compliant products

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

INSERTS

Insert
1-7
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Insert
ANAL-A
~~Under current law, as a result of 2005 Wisconsin Act 126, an applicant for an operator's license or identification card must present documentary proof that the person is either a United States citizen or legally present in the United States. DOT may not issue an operator's license to an applicant who has not provided this documentary proof of citizenship or legal presence. If documentary proof provided by a noncitizen includes an end date for the person's authorized legal presence in the United States, an operator's license or identification card issued to the person must expire no later than the date on which the person's authorization to be legally present in the United States ends.~~

Under current federal law, the REAL ID Act of 2005 (REAL ID Act) prohibits a federal agency from accepting for any "official purpose," including boarding commercial aircraft and entering federal buildings, an operator's license or identification card issued by a state unless the state satisfies requirements contained in the REAL ID Act. The REAL ID Act allows states to issue operator's licenses and identification cards that are not compliant with REAL ID standards if they clearly state on their face that they cannot be accepted by any federal agency

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for federal identification or any other official purpose and if they use a unique design or color indicator to alert federal agency and other law enforcement personnel that they are not REAL ID compliant. ~~While the provisions of the REAL ID Act became effective on May 11, 2008, the federal Department of Homeland Security (Homeland~~

~~Security) regulations promulgated under the REAL ID Act gave states additional time to implement the REAL ID standards. The 2007 biennial budget act, 2007 Wisconsin Act 20, contained provisions incorporating into state law requirements contained in the REAL ID Act. However, most of these provisions are subject to a contingent effective date; the provisions do not become effective until the date specified in a notice provided by DOT after DOT has determined that it is ready to fully implement the REAL ID Act. DOT has not yet provided this notice.~~

~~After DOT provides this notice and these provisions of REAL ID become effective, they will require DOT to significantly modify its process for issuing operator's licenses and identification cards and DOT cannot issue or renew an operator's license or identification card unless the applicant provides, and DOT verifies, all of the following information: 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth; 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) valid documentary proof that the individual is a citizen or national of the United States or an alien lawfully admitted for permanent or temporary residence in the United States or has any other specified forms of legal status or authorization. In processing the application, DOT must verify each document provided and must capture a digital image of each document, which must be retained for at least ten years. For certain legally present noncitizen applicants, DOT must issue operator's licenses or identification cards displaying, on the front of the license or card, a legend identifying the license or identification card as temporary. These licenses and identification cards must expire on the date that the person's legal presence in the United States is no longer authorized or, if there is no end date for the person's authorized legal presence, one year after the date of license or identification card issuance. These licenses and identification cards cannot be renewed unless the applicant provides documentary proof showing that Homeland Security extended the status by which the applicant qualified for the license or identification card.~~

~~This bill requires DOT to issue "driver cards," authorizing only the operation of "Class D" vehicles (generally automobiles and light-duty trucks), to applicants who: 1) are at least 18 years old or have held a driver card instruction permit for at least six months; 2) meet the knowledge and driving skills testing requirements applicable for issuance of operator's licenses for "Class D" vehicles; 3) provide proof of identity; 4) provide proof that they have been Wisconsin residents for at least six months; 5) are unable to provide the documentary proof (as established under 2005 Wisconsin Act 126 and as established under 2007 Wisconsin Act 20 after implementation of REAL ID) that they are either United States citizens or legally present in the United States; 6) provide valid individual taxpayer identification~~

91
1 application for an identification certificate and specify the form and contents of the
2 identification certificate. The rules shall require the design of identification
3 certificates to be resistant to tampering and forgery. The rules shall also incorporate
4 the requirements under sub. (5) (a).

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SECTION 9448. Effective dates: Transportation.
REAL ID NON-COMPLIANT OPERATOR'S LICENSES
(1) DRIVER CARDS AND IDENTIFICATION CARDS

(a) The treatment of sections 340.01 (41g), 343.03 (3) (f) and (g), 343.06 (1) (c), 343.07 (1j) and (7) (a) and (b), 343.085 (2m) (a) 1. b., and 343.17 (3) (a) 14. of the statutes and the creation of sections 343.09 and 343.505 (9) of the statutes takes effect on the first day of the 6th month beginning after publication.

(b) The amendment of sections 85.103 (2), 125.085 (1) (f), 134.71 (8) (a) 2., 139.30 (4n), 343.09 (1) (e), (6), and (7), 343.17 (1), 343.19 (title), (1), and (2) (intro.), 343.235 (title), 343.237 (title) and (6), and 343.43 (2) and subchapter V (title) of chapter 343 of the statutes, the repeal and recreation of sections 343.22 (2), (2m), and (3) and 343.237 (2) and (3) (intro.) of the statutes, and the creation of sections 343.19 (2) (c) and 343.505 (1) to (8) of the statutes take effect on the first day of the 6th month beginning after publication, or on the date on which the creation of section 343.165 of the statutes by 2007 Wisconsin Act 20 takes effect, whichever is later.

(c) The treatment of section 165.8287 (2) and (3) (d) of the statutes takes effect on March 1, 2011, or on the first day of the 6th month beginning after publication, whichever is later.

END